

COMMITTEE REPORT

Senate Committee on Labor and Industrial Relations May 14, 1996

Electronic Transfer (LAC 40:IV.375)

(Editor's Note: The full text of this proposed rule can be viewed on pages 254-255 of the March, 1996 Louisiana Register.)

Pursuant to the provisions of R.S. 49:968, the Senate Committee on Labor and Industrial Relations met on May 14, 1996 to review proposed rule LAC 40:IV.375, electronic transfer system, submitted by the Department of Labor.

Pursuant to R.S. 49:968(F), the committee:

(1) determined the proposed rule (LAC 40:IV.375) electronic transfer system was indeed authorized by Act 46 (Senate Bill 1296 by Senator Cox, et al) of the 1995 Regular Session of the Legislature; however, the mandatory application of the system on certain businesses is not within the scope nor the intent of Act 46.

Act 46 authorized certain funds to be "pledged and dedicated to the administration of the state unemployment compensation program for...an electronic transfer system". The proposed rule provides that certain employers *SHALL REMIT ANY SUCH PAYMENT(S), CONTRIBUTIONS, OR REIMBURSEMENTS BY ELECTRONIC-FUND TRANSFER*. The use of the term "shall" was not within the scope or the intent of the enabling legislation.

The committee therefore suggests the phrase "shall remit" be replaced with the phrase "may remit". The pertinent "shall remit" phrases are found in subsections A, B, and C.

(2) determined the phrase "...subject to penalty and interest under LAS-R.S. 23:1543 for failure to timely remit electronic transfer of funds for any such payment(s)" was open for interpretation. The department is presently not penalizing for untimely remittance and discussion was offered as to the authority of the department to penalize for untimely remittance by electronic transfer. The committee offered several suggestions on the penalty provisions, but decided if the electronic transfer system was offered to employers rather than mandated to, the penalty provisions are moot.

For the above reasons, the Senate Committee on Labor Industrial Relations unanimously agreed that Proposed Rule (LAC 40:IV.375) Electronic Transfer System proposed by the Department of Labor is unacceptable.

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Chairman

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